



# **San Diego City Attorney MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

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### **CITY COUNCIL UNANIMOUSLY APPROVES CITY ATTORNEY'S \$4.3 MILLION SETTLEMENT OF MALPRACTICE CASE**

**San Diego, CA**—City Attorney Michael Aguirre today announced the San Diego City Council's unanimous approval of a \$4.3 million settlement in a malpractice case against the City's former counsel, Vinson & Elkins ("V&E"). The Houston-based law firm was hired in 2004 to conduct an internal review of the City's disclosure practices related to pension matters and its municipal bond offerings, as well as to represent the City in connection with an informal inquiry initiated by the U.S. Securities and Exchange Commission (SEC).

"In 2005, I asked the Council to approve the filing of this lawsuit, which it did unanimously," said City Attorney Aguirre. "The Council's unanimous approval of the settlement shows that the Council and City Attorney can work together to the benefit of the citizens of the City."

The case against V&E asserted that the firm committed errors and omissions in its capacity as the City's counsel in relation to an investigation by the SEC. The City claimed in the lawsuit that V&E failed to perform two engagements that required independent reports from V&E regarding the City's under funded municipal pension system. By entering into the settlement, V&E is not admitting liability.

V&E had counter sued the City for collection of more than \$1.1 million that the firm billed, but that the City had refused to pay. The settlement requires V&E to dismiss its case against the City without the City having to pay any additional fees to V&E.

In total, the proposed settlement is for \$4,350,000 gross which is comprised of cash in the sum of \$3.25 million and a \$1.1 million waiver of fees billed to the City by Vinson & Elkins but held back pending the outcome of this litigation.

Aguirre also noted that "this case was pursued without the City having to pay one dime up front." After legal fees, the City will net more than \$2 million from the V&E case.

The proposed settlement comes after almost two years of hard work by outside attorneys Bryan Vess and Dan Stanford, along with Executive Assistant City Attorney Don McGrath and City Investigator Kevin Christensen. The \$4.35 million settlement was achieved in a mediation conducted by Retired Justice

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Howard Wiener and attended by numerous attorneys and partners of Vinson & Elkins and Messrs. McGrath, Stanford and Vess.

The City Attorney has brought a number of professional negligence actions against various entities. To date, the lawsuits have resulted in more than \$10.5 million in settlements.

Previous settlements to date negotiated by the San Diego City Attorney's Office include the following:

Party	Settlement Amount	Policy Limits
City v. Callan Associates, Inc.	\$4,500,000	\$5,000,000
City v Caporrici & Larson	\$900,000	\$1,000,000
City v. Calderon, Jaham & Osborn	\$750,000	\$1,000,000
City v. Vinson & Elkins	\$4,350,000	N/A
<b>TOTAL</b>	<b>\$10,500,000</b>	

The City has additional professional negligence cases pending against Orrick, Herrington & Sutcliffe, Gabriel Roeder Smith & Company, and Willkie Farr & Gallagher. The San Diego City Council unanimously approved the filing of all of the professional negligence cases that the City Attorney initiated.

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